

# MANDATE

E.D.N.Y.  
09-cv-0119  
09-cv-0305  
09-cv-2578  
Garaufis, J.  
09-cv-3246  
Townes, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

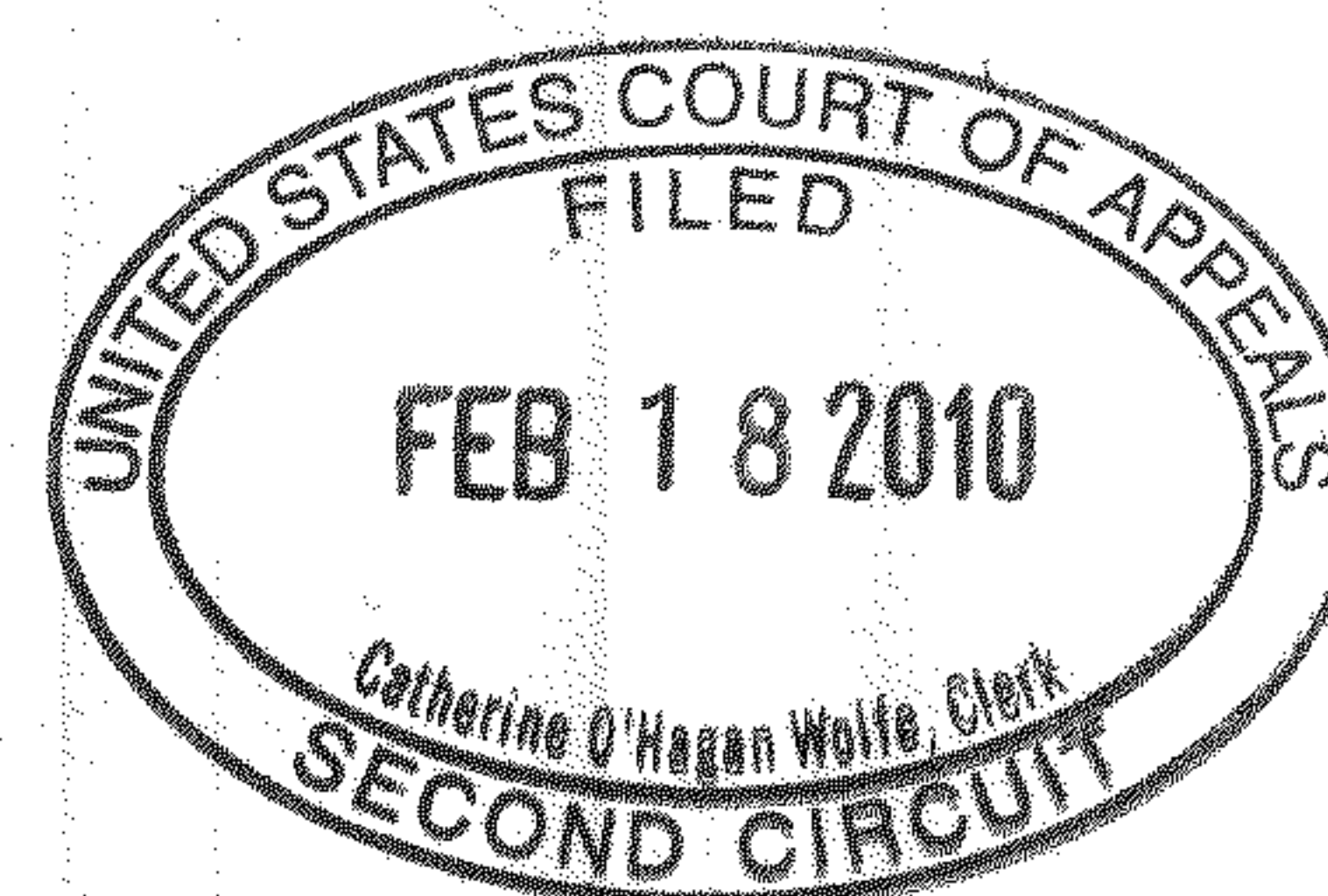
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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 18<sup>th</sup> day of February, two thousand ten,

Present:

Debra Ann Livingston,  
Gerard E. Lynch,  
*Circuit Judges,*  
Timothy C. Stanceu,\*  
*Judge, U.S. Court of International Trade.*

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Frank DeMartino,

*Plaintiff-Counter-Defendant-Appellant,*

v.

09-3849-cv

Guardian Robert Kruger, Esq.,

*Defendant-Counter-Claimant-Appellee.*

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Frank DeMartino,

*Plaintiff-Counter-Defendant-Appellant,*

v.

09-3838-cv

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\*Timothy C. Stanceu, of the United States Court of International Trade, sitting by designation.

MANDATE ISSUED ON 07/07/2010



Esq. Guardian Robert Kruger,

*Defendant-Counter-Claimant-Appellee,*

NYC Building Department, NYC Police Department,  
Peri Formwork, Miles & Stockbridge,

*Defendants.*

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Frank DeMartino,

*Plaintiff-Appellant,*

v.

09-3841-cv

Guardian Robert Kruger, Esq.

*Defendant-Appellee.*

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Frank DeMartino,

*Plaintiff-Appellant,*

v.

09-3918-cv

Honorable Charles J. Thomas, J.S.C., Individually  
and in his Official Capacity,

*Defendant-Appellee.*

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The above-captioned appeals are hereby CONSOLIDATED for purposes of this order. Appellant, *pro se* moves, in the appeal docketed under 09-3849-cv, to supplement the record on appeal and for the appointment of *pro bono* counsel.

Upon due consideration, it is hereby ORDERED that the above-captioned appeals are DISMISSED. This Court has determined *sua sponte* that it lacks jurisdiction over the appeal docketed under 09-3838-cv because a final order has not been issued by the district court as contemplated by 28 U.S.C. § 1291, *see Coopers & Lybrand v. Livesay*, 437 U.S. 463, 467 (1978), and that the appeals docketed under 09-3849-cv, 09-3841-cv, and 09-3918-cv lack an arguable basis in law or fact, *see Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (explaining when an action lacks an arguable basis in law or fact); *Pillay v. INS*, 45 F.3d 14, 17 (2d Cir. 1995); 28

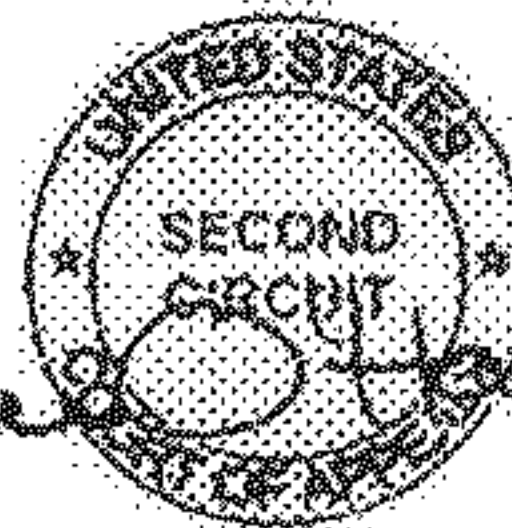


U.S.C. § 1915(e).

Appellant is hereby warned that the continued filing of duplicative, vexatious, or clearly meritless appeals, motions, or other papers regarding his father's guardianship proceedings or the actions of his father's appointed guardian will result in the imposition of sanctions, which may include a leave-to-file sanction requiring Appellant to obtain permission from this Court prior to filing any further submissions in this Court regarding his father's guardianship proceedings or the actions of his father's guardian. *See In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993); *Sassower v. Sansverie*, 885 F.2d 9, 10 (2d Cir. 1989).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

 Catherine O'Hagan Wolfe

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

 Catherine O'Hagan Wolfe